

IN THE DRAWINGS:

Please substitute the enclosed corrected six sheets 1/6 through 6/6 of formal drawings, including Figs. 1/6 and identified in the upper right corner as "Replacement Sheet," for the six sheets 1-6 through 6/6 of formal drawings, including Figs. 1-6, currently on file. The drawings have been corrected to show fuel delivery means, as required by the Examiner.

## REMARKS

By the foregoing amendment, the specification and drawings have been amended as required by the Examiner, and Claims 1, 4, 26 and 29 have been amended. Claims 1-4, 15, 16, 26, 29 and 30 remain pending. Favorable reconsideration of the application is respectfully requested.

The Examiner objected to the drawings as not showing the "fuel delivery means," which was recited in Claims 1 and 29, the "actuator means," which was recited in Claim 1, and the "electronic controller," which was recited in Claim 1. The specification and drawings have been amended to show and describe the fuel delivery means, as required by the Examiner. Support for the amendment of the specification and drawings can be found in the originally filed Claim 1, and in the specification at page 1, lines 26-27, and it is believed that the amendments introduce no new matter. The terms "actuator means" and "electronic controller" have been deleted from the claims. It is therefore believed that the objections to the drawings can now be withdrawn.

The Examiner objected to the wording of Claims 1, 4 and 29. The Examiner indicated that according to 37 CFR §1.75(e) "the improvement in the turbocharged internal combustion engine comprising" should be replaced by "wherein the improvement in the turbocharged internal combustion engine comprising," which is incorrect. As is indicated in MPEP §608.01(m), there is no set statutory form for claims, and 37 CFR §1.75(e) merely recommends in the case of an improvement a phrase such as "wherein the improvement comprises," and it is respectfully submitted that the Examiner's suggested transition phrase of "wherein the improvement in the turbocharged internal combustion engine comprising" is grammatically improper. The beginning phrase of the preamble "In a ..." is also very common in improvement type claims. While the preamble of Claim 1 has been amended as requested by the Examiner, the transitional phrase in the preamble of Claim 1 has been amended to read "wherein the improvement in the turbocharged internal combustion engine comprises," in accordance with 37 CFR §1.75(e).

Claim 4 has been amended to recite "the inlet valve means" and to change "intake valve means" to "inlet valve means," as required by the Examiner. The Examiner did not specify any objections to the wording of Claim 29. However, Claim 29 has been amended to avoid wording

of the claim in the alternative. It is therefore believed that the objections to Claims 1, 4 and 29 can be withdrawn.

Claims 1-4, 15, 16, 26, 29 and 30 were rejected on the grounds of indefiniteness under 35 U.S.C. § 112. The Examiner indicated that in Claim 1 the recitation of variation of opening and closing of the first exhaust gas valve relative to the "second exhaust" was indefinite. Claim 1 has been amended to recite "wherein opening and closing of the first exhaust valve and opening and closing of the second exhaust valve controls the proportion of the flow of exhaust gas which flows through the first exhaust duct to the first turbocharger relative to the second exhaust duct, and the proportion of the flow of exhaust gas which flows through the first exhaust duct relative to the second exhaust duct being varied by variation of opening and closing of the first exhaust valve with changes in engine speed." Support for the amendment can be found in the specification at page 5, lines 1-6, at page 7, lines 10-16, and at page 9, lines 6-13.

Claim 4 was rejected for recitation of "inlet valve means," as a double recitation of the element, and as previously noted above, Claim 4 has been amended to recite "the inlet valve means" as required by the Examiner. It is therefore respectfully submitted that the rejection of Claims 1-4, 15, 16, 26, 29 and 30 on the grounds of indefiniteness should be withdrawn.

Claims 1-3 and 15 were rejected under 35 U.S.C. §103(a) on the grounds of obviousness from Yamane (JP 61-164039 A) in view of Santo (JP 01-285619 A). The Examiner referred to lines 1-6 of the claim in Santo, and page 3, lines 17-34 of Santo as disclosing the proportion of flow of exhaust gas which flows through the first turbocharger being varied by variation of opening and closing of the first exhaust valve relative to the second exhaust gas valve with changes in engine speed. Claim 1 has been amended to recite "wherein opening and closing of the first exhaust valve and opening and closing of the second exhaust valve controls the proportion of the flow of exhaust gas which flows through the first exhaust duct to the first turbocharger relative to the second exhaust duct, and the proportion of the flow of exhaust gas which flows through the first exhaust duct relative to the second exhaust duct being varied by variation of opening and closing of the first exhaust valve with changes in engine speed." According to the claim and page, 3, lines 18-19 of Santo, the first exhaust valve is operated in the entire operating region. Any variation of operation of the second supercharger 12 is driven by steadily opening the second exhaust valve 5, not by variation of operation of the first exhaust

valve. It is respectfully submitted that there is no evidence in the combination of Yamane and Santo of any teaching or suggestion of the proportion of the flow of exhaust gas which flows through the first exhaust duct relative to the second exhaust duct being varied by variation of opening and closing of the first exhaust valve with changes in engine speed, as is claimed. It is therefore respectfully submitted that Claims 1-3 and 15 patentably distinguish the combination of Yamane and Santo, and that the rejection of Claims 1-3 and 15 on the grounds of obviousness from Yamane in view of Santo should be withdrawn.

Claims 4, 26 and 29 were rejected under 35 U.S.C. §103(a) on the grounds of obviousness from Yamane in view of Santo, and further in view of Hirabayashi. Hirabayashi was cited as disclosing the use of a bypass passage. Claims 4, 26 and 29 depend from Claim 1, discussed above. It is respectfully submitted that there is no evidence in the combination of Yamane, Santo and Hirabayashi of any teaching or suggestion of the proportion of the flow of exhaust gas which flows through the first exhaust duct relative to the second exhaust duct being varied by variation of opening and closing of the first exhaust valve with changes in engine speed, as is claimed. It is therefore respectfully submitted that Claims 4, 26 and 29 patentably distinguish the combination of Yamane, Santo and Hirabayashi, and that the rejection of Claims 4, 26 and 29 on the grounds of obviousness from Yamane in view of Santo, and further in view of Hirabayashi should be withdrawn.

Claim 16 was rejected under 35 U.S.C. §103(a) as obvious over Yamane in view of Santo, and further in view of either Lovell or Gray. Lovell and Gray were cited as disclosing closing of exhaust valve means during the upstroke of the piston in order to trap combusted gases in the combustion chamber, and the trapped combusted gases forming a mixture with the fuel and air and serving to delay ignition of the fuel and air mixture when the engine is operating in a first combustion mode with homogenous charge compression ignition. Claim 16 depends from Claim 1, discussed above. It is respectfully submitted that there is no evidence in the combination of Yamane, Santo, Lovell and Gray of any teaching or suggestion of the proportion of the flow of exhaust gas which flows through the first exhaust duct relative to the second exhaust duct being varied by variation of opening and closing of the first exhaust valve with changes in engine speed, as is claimed. It is therefore respectfully submitted that Claim 16 patentably distinguishes the combination of Yamane, Santo, Lovell and Gray, and that the

rejection of Claim 16 on the grounds of obviousness from Yamane in view of Santo, and further in view of either Lovell or Gray should be withdrawn.

Claim 30 was rejected under 35 U.S.C. §103(a) as obvious over Yamane in view of Santo and Hirabayashi and further in view of either Lovell or Gray. Claim 30 depends from Claim 1, discussed above. It is respectfully submitted that there is no evidence in the combination of Yamane, Santo, Hirabayashi, Lovell and Gray of any teaching or suggestion of the proportion of the flow of exhaust gas which flows through the first exhaust duct relative to the second exhaust duct being varied by variation of opening and closing of the first exhaust valve with changes in engine speed, as is claimed. It is therefore respectfully submitted that Claim 30 patentably distinguishes the combination of Yamane, Santo, Hirabayashi, Lovell and Gray, and that the rejection of Claim 30 on the grounds of obviousness from Yamane in view of Santo and Hirabayashi, and further in view of either Lovell or Gray, should be withdrawn.

In light of the above amendments and remarks, it is respectfully submitted that the application is now in condition for allowance, and an early favorable action in this regard is respectfully requested.

The commissioner is authorized to charge any deficiencies in fees or credit any overpayments to our Deposit Account No. 06-2425.

Respectfully submitted,

FULWIDER PATTON LLP

By: /james w. paul/.  
James W. Paul  
Reg. No. 29,967

JWP/jb

Encls: Replacement sheets 1/6 through 6/6 of formal drawings

Howard Hughes Center  
6060 Center Drive, Tenth Floor  
Los Angeles, CA 90045  
Telephone: (310) 824-5555  
Facsimile: (310) 824-9696  
Customer No. 24201